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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,512	07/18/2003	Holger Jessen	R 303200	1177

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Walter Ottesen
Patent Attorney
P.O. Box 4026
Gaithersburg, MD 20885-4026

EXAMINER

LOUIS JACQUES, JACQUES H

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,512

Applicant(s)

JESSEN, HOLGER

Examiner

Jacques H Louis-Jacques

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/2/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION***Drawings***

1. The drawings are objected to because the boxes in the figures should be properly labeled. That is, elements of the device (Fig. 1) and the steps of flow chart (Fig. 2) should be identified. For example, box 16 should be labeled "computer unit". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakayama et al [US 20040098190 A1].

Nakayama et al discloses a control apparatus for motor vehicle and storage medium, wherein each of a plurality of output values of the vehicle varies depending on a plurality of input control parameters for controlling the vehicle (abstract). On page 9, for example, Nakayama et al discloses that the input control parameters are considered in sequence of the priorities. Furthermore, Nakayama et al discloses considering the input control parameters starting with the input control parameters having the lowest priority, or, alternatively, having the highest priority, wherein the input control parameters having different priorities.

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4. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Volz et al [6,394,063].

Volz et al [6,384,063] discloses a method for operating an internal combustion engine. According to Volz et al '063, a drive unit (ICE) of a vehicle is controlled by adjusting an output quantity of the drive unit in dependence upon desired value input quantities (abstract); and, to make the adjustment of the output quantity, forming a desired value which considers the desired value input quantities based on their priorities. As described in column 2, each desired value input quantities is assigned a priority and the determination or formation of the desired value is carried out in dependence upon the priorities of the desired value input quantities. Additionally, Volz et al discloses that the desired value input quantities are considered in sequence of their priorities. See figures 3-5 and columns 6-7. Volz et al further discloses considering the desired value input quantities starting with the desired value input quantity having the lowest priority, or, alternatively, the highest priority, wherein the desired value input quantities having different priorities. See figure 4 and columns 6-7

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admitted prior art (hereafter Jorgen et al*) in view of Wild et al [6,539,915].

As admitted by applicant in the background of the invention, German patent publication 100 16 649 to Jorgen et al discloses a method for controlling the drive unit of a vehicle. At least one output quantity of the drive unit is adjusted in dependence upon desired value input quantities. To make an adjustment, one of the desired value input quantities is applied which is selected from the received desired value input quantities. In addition to the desired value input quantities, characteristic quantities are received which describe the type of adjustment of the desired value input quantities. To control the drive unit, these characteristic quantities are selected independently of the desired value inputs. However, as recognized by applicant, the characteristic quantities, according to the method of Jorgen et al, include dynamic requests and priorities. Jorgen et al does not consider the desired value input quantities in a sequence of their priorities. Wild et al, on the other hand, discloses a method and device for operating a drive unit (e.g., ICE) which can be operated in several modes of operation in dependence upon assigned modes of operation. See abstract. Figure 4, for example, shows of flow chart in which the functions for setting the operations of the drive unit are selected in the sequence of priority. See also figures 3 and 5 and columns 2-3. More particularly in columns 6-8, Wild et al discloses considering desired input quantities starting with the desired value input quantity having the lowest priority, or alternatively the highest priority, desired value input quantities having different priorities. Thus, it would have been obvious to one

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skilled in the art at the time of the invention to be motivated to modify the teaching of Jurgen et al (admitted prior art) by incorporating the priority sequence from the method and system of controlling the drive unit of Wild et al because such modification ensure that appropriate input quantities are considered, thereby improving the performance of the drive unit.

* Jurgen et al corresponds to German patent publication 100 16 649 described by Applicant in the background of the invention.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

4,147,035	Moore et al	Apr. 1979
4,625,281	Deutsch	Nov. 1986
5,097,724	Braun	Mar. 1992
6,285,946	Steinmann	Sep. 2001
6,467,451	Volz et al	Oct. 2002
6,778,883	Gerhardt et al	Aug. 2004
US 2003/0100405	Homeyer et al	May 2003

Each of the above cited references are considered to be very pertinent to Applicant's claimed invention.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacques H Louis-Jacques whose telephone number is 703-305-9757. The examiner can normally be reached on M-Th 6:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on 703-305-8233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jacques H Louis-Jacques
Primary Examiner
Art Unit 3661

/jlj

Jacques H. Louis-Jacques
JACQUES H. LOUIS-JACQUES
PRIMARY EXAMINER